

**Senate File 367 - Introduced**

SENATE FILE 367

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1146)

**A BILL FOR**

1 An Act relating to certain financial obligations, including  
2 under the consumer credit code, and including under the  
3 criminal and juvenile justice system by modifying criminal  
4 and civil surcharges, fines, fees, costs, and court debt,  
5 providing civil penalties, and including effective date and  
6 retroactive applicability provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 537.1301, subsection 12, Code 2021, is  
2 amended to read as follows:

3 12. "*Consumer credit transaction*" means a consumer credit  
4 sale or consumer loan, or a refinancing or consolidation  
5 thereof, or a consumer lease, or a consumer rental purchase  
6 agreement. "*Consumer credit transaction*" does not include  
7 goods, services, or any other benefits provided by or on behalf  
8 of the state or a state agency.

9 Sec. 2. Section 602.8105, subsection 2, paragraph h, Code  
10 2021, is amended to read as follows:

11 h. For applicable convictions under section 692A.110 prior  
12 ~~to July 1, 2009, a civil penalty of two hundred ten dollars,~~  
13 ~~and for applicable convictions under section 692A.110~~ on or  
14 after July 1, 2009 June 25, 2020, a civil penalty of two  
15 hundred sixty dollars.

16 Sec. 3. Section 602.8107, subsection 1, paragraph a, Code  
17 2021, is amended to read as follows:

18 a. "*Court debt*" means all restitution as defined in section  
19 910.1, fees, and forfeited bail, and other debt paid to or  
20 collected by the clerk of the district court.

21 Sec. 4. Section 602.8107, subsection 3, Code 2021, is  
22 amended to read as follows:

23 3. *Collection by department of revenue.*

24 a. ~~(1)~~ Thirty days after court debt has been assessed  
25 and full payment has not been received, or if an installment  
26 payment is not received within thirty days after the date it is  
27 due, the judicial branch shall assign a case to the department  
28 of revenue, unless the case has been assigned to the county  
29 attorney under paragraph ~~"e"~~ "d".

30 ~~(2) The department of revenue may impose a fee established~~  
31 ~~by rule to reflect the cost of processing which shall be added~~  
32 ~~to the debt owed to the clerk of the district court.~~

33 b. (1) ~~In addition, court debt which is being collected~~  
34 ~~under an installment agreement pursuant to section 321.210B~~  
35 ~~which is in default that remains delinquent shall remain~~

~~1 assigned to the department of revenue if the installment~~  
~~2 agreement was executed with the department of revenue; or~~  
~~3 to the county attorney or county attorney's designee if the~~  
~~4 installment agreement was executed with the county attorney~~  
~~5 or county attorney's designee~~ The department of revenue shall  
6 receive fifteen percent of all court debt payments collected on  
7 cases assigned to the department of revenue for collection to  
8 reflect the cost of processing, with the remainder of the court  
9 debt to be collected by the clerk of the district court for  
10 distribution in accordance with applicable law. The department  
11 of revenue shall not receive payment pursuant to this paragraph  
12 from any court debt collected that is payable to a crime victim  
13 as pecuniary damages until after the clerk of the district  
14 court has received the entirety of the court debt payable to  
15 the crime victim as pecuniary damages.

16 (2) Payments made by a person under subparagraph (1) between  
17 January 1, 2021, and the effective date of this Act which added  
18 the department of revenue processing fee to the debt owed to  
19 the clerk of the district court pursuant to section 602.8107,  
20 subsection 3, paragraph "a", subparagraph (2), Code 2021,  
21 shall be calculated as if the payment had been made pursuant  
22 to subparagraph (1) and the department's fee in subparagraph  
23 (1) shall be applied to such a payment. The department of  
24 revenue processing fee added to the debt shall be deducted from  
25 the amount of court debt owed to the clerk of the district  
26 court. If a payment made by a person owing court debt between  
27 January 1, 2021, and the effective date of this Act reduces  
28 the total amount of court debt owed to zero, the department  
29 of revenue shall issue a refund to the person in the amount  
30 attributable to the processing fee added to the court debt.  
31 This subparagraph is repealed on January 1, 2023.

32 c. The centralized debt collection facilities of the  
33 department of revenue established pursuant to section 421.17,  
34 subsection 27, shall collect court debt assigned to the  
35 department of revenue pursuant to this section.

1 ~~e.~~ d. Thirty days after court debt has been assessed  
 2 and full payment has not been received, or if an installment  
 3 payment is not received within thirty days after the date it  
 4 is due, and if a county attorney has filed with the clerk  
 5 of the district court a notice of full commitment to collect  
 6 delinquent court debt pursuant to subsection 4, the case shall  
 7 be assigned to the county attorney as provided in subsection 4.  
 8 The judicial branch shall assign cases with delinquent court  
 9 debt to a county attorney in the same format and with the same  
 10 frequency as cases with delinquent court debt are assigned to  
 11 the department of revenue under paragraph "a", and a county  
 12 attorney shall not be required to file an individual notice  
 13 of full commitment to collect delinquent court debt for each  
 14 assigned case. If the county attorney or the county attorney's  
 15 designee, while collecting delinquent court debt pursuant to  
 16 subsection 4, determines that a person owes additional court  
 17 debt for which a case has not been assigned by the judicial  
 18 branch, the county attorney or the county attorney's designee  
 19 shall notify the clerk of the district court of the appropriate  
 20 case numbers and the judicial branch shall assign these cases  
 21 to the county attorney for collection if the additional court  
 22 debt is delinquent.

23 Sec. 5. Section 602.8107, subsection 4, paragraph a, Code  
 24 2021, is amended to read as follows:

25 a. This subsection does not apply to amounts collected  
 26 for restitution involving pecuniary damages, the victim  
 27 compensation fund, the crime services surcharge, ~~sex offender~~  
 28 ~~civil penalty~~ the human trafficking victim surcharge, the  
 29 domestic and sexual abuse crimes surcharge, the agricultural  
 30 theft surcharge, or amounts collected as a result of procedures  
 31 ~~initiated under subsection 5~~ the sex offender civil penalty,  
 32 or under section 8A.504.

33 Sec. 6. Section 602.8107, subsection 5, Code 2021, is  
 34 amended by striking the subsection and inserting in lieu  
 35 thereof the following:

1     5. *Uncollectible debt.*

2     a. Court debt that has been assigned to the department of  
3 revenue for collection pursuant to subsection 3 may be charged  
4 off from active collection by the director of the department of  
5 revenue if either of the following conditions exist:

6       (1) The person owing the court debt is deceased and there  
7 are no assets in the person's estate or there are no assets  
8 available for the payment of court debt under section 633.425.

9       (2) The person owing the court debt cannot be located  
10 after diligent inquiry and the director of the department of  
11 revenue determines the department will not be able to locate  
12 the person.

13    b. Court debt for any of the following shall not be charged  
14 off until sixty-five years from the date of imposition:

15       (1) Victim restitution.

16       (2) Victim compensation.

17       (3) A criminal penalty surcharge.

18       (4) A sex offender civil penalty.

19       (5) A drug abuse resistance education surcharge.

20       (6) A law enforcement initiative surcharge.

21       (7) A county enforcement surcharge.

22       (8) Fees charged pursuant to section 356.7.

23    c. Debt that is charged off shall remain due and owing, but  
24 the judicial branch shall close the corresponding case file for  
25 the purposes of collection pursuant to this section.

26    Sec. 7. Section 692A.110, subsection 2, Code 2021, is  
27 amended to read as follows:

28     2. In addition to any other penalty, at the time of  
29 conviction for a public offense committed on or after July 1,  
30 1995, which requires a sex offender to register under this  
31 chapter, the offender shall be assessed a civil penalty of ~~two~~  
32 ~~hundred dollars, to be payable to the clerk of the district~~  
33 ~~court as provided in section 602.8105 and distributed as~~  
34 ~~provided in section 602.8108. With respect to a conviction~~  
35 ~~for a public offense committed on or after July 1, 2009, which~~

1 ~~requires a sex offender to register under this chapter, the~~  
2 ~~offender shall be assessed a civil penalty of two hundred fifty~~  
3 ~~dollars,~~ payable to the clerk of the district court as provided  
4 in [section 602.8105](#) and distributed as provided in section  
5 602.8108.

6 Sec. 8. Section 910.3, subsection 8, Code 2021, is amended  
7 to read as follows:

8 8. The court shall enter a permanent restitution order  
9 setting out the amount of restitution including the amount of  
10 public service to be performed as restitution and the persons  
11 to whom restitution must be paid. A permanent restitution  
12 order entered at the time of sentencing is part of the final  
13 judgment of sentence as defined in [section 814.6](#) and shall  
14 be considered in a properly perfected appeal. An appellate  
15 court shall not review or modify any issue related to a  
16 defendant's ability to pay unless the defendant has exhausted  
17 the defendant's remedies under section 910.7 and obtained a  
18 ruling from the district court prior to the issue being raised  
19 in the appellate court.

20 Sec. 9. Section 911.2B, Code 2021, is amended to read as  
21 follows:

22 **911.2B Domestic abuse assault, domestic abuse protective**  
23 **order contempt, and sexual abuse, stalking, and human trafficking**  
24 **crimes surcharge.**

25 1. In addition to any other surcharge, the court shall  
26 assess a ~~domestic abuse assault, domestic abuse protective~~  
27 ~~order contempt, sexual abuse, stalking, and human trafficking~~  
28 ~~victim~~ domestic and sexual abuse crimes surcharge of ninety  
29 dollars if an adjudication of guilt or a deferred judgment has  
30 been entered for a violation of [section 708.2A](#), [708.11](#), or  
31 [710A.2](#), or [chapter 709](#), or if a defendant is held in contempt  
32 of court for violating a domestic abuse protective order issued  
33 pursuant to [chapter 236](#).

34 2. In the event of multiple offenses, the surcharge shall be  
35 imposed for each applicable offense.

1     3. The surcharge shall be remitted by the clerk of court as  
2 provided in [section 602.8108, subsection 6](#).

3       Sec. 10.   RESCISSION OF ADMINISTRATIVE RULES.   Contingent  
4 on the passage of the section of this Act amending section  
5 602.8107, subsection 3, paragraph "a", the following  
6 administrative rule is rescinded:

7 Iowa administrative code rule 701—155.1(602).

8      Sec. 11.    EFFECTIVE DATE.    The following, being deemed of  
9 immediate importance, take effect upon enactment:

10     1. The section of this Act amending section 602.8105,  
11 section 2, paragraph "h".

12       2. The section of this Act amending section 602.8107,  
13 subsection 3.

14       Sec. 12. RETROACTIVE APPLICABILITY. The following applies  
15 retroactively to January 1, 2021, for collected delinquent  
16 court debt:

17 The section of this Act amending section 602.8107,  
18 subsection 3.

19       Sec. 13. RETROACTIVE APPLICABILITY. The following applies  
20 retroactively to June 25, 2020:

21 The section of this Act amending section 602.8105,  
22 subsection 2, paragraph "h".

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with  
25 the explanation's substance by the members of the general assembly.

26 This bill relates to certain financial obligations,  
27 including under the consumer credit code, and including under  
28 the criminal and juvenile justice system by modifying criminal  
29 and civil surcharges, fines, fees, costs, and court debt.

30 The bill provides that a "consumer credit transaction" does  
31 not include goods, services, or any other benefits provided by  
32 or on behalf of the state or a state agency for purposes of the  
33 consumer credit code under Code chapter 537.

34 The bill provides that the clerk of the district court  
35 shall collect, for applicable convictions that occur under

1 Code section 692A.110 (registration fees and civil penalty for  
2 sex offenders) on or after June 25, 2020, a civil penalty of  
3 \$260. The bill makes a conforming Code change to Code section  
4 692A.110(2).

5 The bill amends the definition of "court debt" to mean all  
6 restitution as defined in Code section 910.1, fees, forfeited  
7 bail, and other debt paid to or collected by the clerk of  
8 the district court. "Restitution" means pecuniary damages,  
9 category "A" restitution, and category "B" restitution.

10 The bill provides that the department of revenue shall  
11 receive 15 percent of all court debt payments collected on  
12 cases assigned to the department of revenue for collection  
13 to reflect the cost of processing, with the remainder of the  
14 court debt to be collected by the clerk of the district court  
15 for distribution in accordance with applicable law. The  
16 department of revenue shall not receive payment from any court  
17 debt collected that is payable to a crime victim as pecuniary  
18 damages until after the clerk of the district court has  
19 received the entirety of the court debt payable to the crime  
20 victim as pecuniary damages. Payments made by a person between  
21 January 1, 2021, and the effective date of the bill shall be  
22 calculated as if the payment had been made pursuant to Code  
23 section 602.8107(3)(a)(2), Code 2021, and the department's fee  
24 shall be applied to such a payment. The department of revenue  
25 fee added to the court debt shall be deducted from the amount  
26 of court debt owed to the clerk of the district court. If a  
27 payment made by a person owing court debt between January 1,  
28 2021, and the effective date of the bill reduces the total  
29 amount of court debt owed to zero, the department of revenue  
30 shall issue a refund to the person in the amount attributable  
31 to the processing fee added to the court debt. Code section  
32 602.8107(3)(b)(2) is repealed on January 1, 2023.

33 Current law allows the county attorney or the county  
34 attorney's designee to collect a percentage of court debt  
35 collected after the court debt is deemed delinquent, but not

1 for amounts collected for restitution involving pecuniary  
2 damages, the victim compensation fund, the crime services  
3 surcharge, the sex offender civil penalty, the agricultural  
4 theft surcharge, or amounts collected as a result of written  
5 off or setoff debt. The bill amends debts for which the county  
6 attorney is not entitled to include in the amounts collected  
7 for the domestic and sexual abuse crimes surcharge.

8 The bill provides that court debt that has been assigned  
9 to the department of revenue for collection may be charged  
10 off from active collection by the director of the department  
11 of revenue if the person owing the court debt is deceased  
12 and there are no assets in the person's estate or there are  
13 no assets available for the payment of court debt under Code  
14 section 633.425 or the person owing the court debt cannot be  
15 found after diligent inquiry and the director of the department  
16 of revenue determines the department will not be able to locate  
17 the person owing the court debt.

18 Court debt for any of the following shall not be charged  
19 off until 65 years after the date of imposition: victim  
20 restitution, the victim compensation fund, a criminal  
21 penalty surcharge, a sex offender civil penalty, a drug abuse  
22 resistance education surcharge, a law enforcement initiative  
23 surcharge, a county enforcement surcharge, or fees charged  
24 pursuant to Code section 356.7. Charged off debts shall  
25 remain due and owing, but the judicial branch shall close the  
26 corresponding case file for the purposes of uncollectable debt  
27 pursuant to the bill.

28 The county attorney or the county attorney's designee may  
29 collect court debt after the court debt is deemed delinquent;  
30 however, the provision does not apply to amounts collected  
31 for restitution involving pecuniary damages, the victim  
32 compensation fund, the crime victim surcharge, the human  
33 trafficking victim surcharge, the domestic and sexual abuse  
34 crimes surcharge, the agricultural theft surcharge, the sex  
35 offender civil penalty, or under Code section 8A.504 (setoff

1 procedures).

2 The bill provides that an appellate court shall not review or  
3 modify any issue related to the defendant's ability to pay a  
4 permanent restitution order entered at the time of sentencing  
5 unless the defendant has exhausted the defendant's remedies  
6 under Code section 910.7 and obtained a ruling from the  
7 district court prior to the issue being raised in the appellate  
8 court.

9 The bill changes the headnote for Code section 911.2B to  
10 domestic and sexual abuse crimes surcharge.

11 The bill provisionally rescinds the Iowa administrative  
12 code rule concerning a fee for the collection of court debt.  
13 The rule provides that a fee of 15 percent of the amount of  
14 each court debt is imposed on each court debt that has been  
15 assigned to the department of revenue for collection under Code  
16 section 602.8107(3). The bill provides that the department of  
17 revenue shall receive 15 percent of all court debt payments  
18 collected on cases assigned to the department of revenue for  
19 collection to reflect the cost of processing, which makes the  
20 rule unnecessary.

21 The bill provides that the sections of the bill amending Code  
22 sections 602.8105(2)(h) (relating to civil penalties for sex  
23 offenders) and 602.8107(3) (relating to the collection of court  
24 debt by the department of revenue) take effect upon enactment.  
25 The section of the bill amending Code section 602.8105(2)(h)  
26 applies retroactively to June 25, 2020, and the section of the  
27 bill amending Code section 602.8107(3) applies retroactively  
28 to January 1, 2021.